

Menu Labeling Stakeholder Meeting

12/13/07

16 Industry Representatives from grocery², restaurants, fast food and wine and spirits associations

PHSKC: Dennis Worsham, Regional Health Officer; Donna Oberg, PH Nutrition Consultant; Mark Rowe, Food and Facilities Manager; Gary Kickbusch, Food Program Technical Advisor; Jen Johnson, Administration; Morgan Barry, Health Education Consultant.

Introduction: After introductions, Morgan and Dennis shared Public Health's deep appreciation for each representative's time to participate in this process.

Dennis reviewed the development process for the policy and procedure, that it's purpose is as guidance for implementing the regulation, and that through industry's participation, the expectation is that implementation will be clearer, easier and more successful.

Morgan guided the discussion on the definition of the Menu Labeling Draft Policy and Procedures. Following is the summary of the discussion.

4.1.1 Definition: Chain Food Establishments – *concern was expressed about “same menu concept” as part of definition. Could it hold up legally? Could there be chains that have 80% of their menu items made from standard recipes and on the menu more than 60 days a year that are different “menu concepts” and therefore, cause problems in knowing if one is “in or out” in the definition.*

Two restaurant groups said “same menu concept” was helpful in determining if they would be considered a chain or not, but didn't know if it would work “when the rubber hit the road” legally. (not “legalese” said one grocery store representative).

Dennis asked the group if taking out the words “same menu concept” would change their understanding of “chain establishment,” and there was agreement that it would not change their understanding of chain if “same menu concept” was removed. Public Health will bring the final draft language back to the next meeting.

Annual Permit forms will request new information asking establishments to “self identify” if they are a chain or not.

Public Health will present the proposed final definition of “chain” at the next meeting.

4.1.2 Definitions: Menu & 4.1.3 Menu Board- generated a lot of discussion

- Are “To Go” menus included? **Answer:** yes, all menus are included.
- Industry wants to be certain that they have the menus and menu boards “right the first time.” Will PH offer a “pre-approval” process? **Answer:** PH can offer some type of technical assistance to help chain establishments determine if their menus/menu boards meet the regulation. PH will develop a process and check it out with industry at the next meeting.
- It’s confusing to consumers if only those 80% (+) menu items made with a standard recipe are required to be labeled on the menu. **Answer:** industry can choose to label more than those with standard recipe, and PH will be doing an education campaign for the public that might make it clearer.
- Beer, wine, spirits: Averaging will be acceptable, based on the USDA’s figures. Donna presented options for how that might appear on a menu. Mixed drinks will not be labeled.

4.1.4 Definition for Standard (or Standardized) Recipe – Industry wanted PH to understand that chefs may not measure exactly or often add more of something, like extra seasoning, milk, butter, to bring the particular recipe up to standard texture or flavor – does that change the mean it’s no longer made with a standard recipe? **Answer:** No, it’s still based on a standard recipe.

4.1.5 Definition for Substantially the same menu items: Why the change from 50% to 80% for the “substantially the same menu items?” **Answer:** Dennis explained that Public Health choose 50% as a place to start the conversation and Center for Science in the Public Interest thought 50% was low but workable. However, through discussion with industry and the further research they provided, PH determined 80% appears to fit the industry standard of “chain” more adequately.

4.1.6 Exclusions to Standard menu item:

- “food tags,” or “case tags” are exempt from the rule. Public Health will bring a clearer definition to next meeting
- **question:** deli might just have “chicken” on menu board, but the chicken options have different sauces – and some not offered all the time; bakery might have “assorted pastries” on board, or “assorted pies” on menu. How to reflect this? **Answer:** PH will bring clarification to next meeting.
- **Suggestion:** include “sandwiches made to order” as customized order, and therefore, not covered by the rule.

Suggestion to reverse 4.2 and 4.3 (labeling requirements and location on menu) was accepted and is reflected in the notes below.

4.2 Location of nutrition labeling required on menus.

- Discussion on what “similar size” means in regard to font size, shading, etc. Donna handed out an example of nutritional information on a menu at 75% of the size of the menu item. Industry strongly suggested that public health be specific about what “similar size” means, and one way would be to use the percentage of the menu item. The more specific the policy, the easier to meet the policy successfully. PH thought flexibility for each establishment would be important, but industry is advocating for specific guidelines, so success is assured, and keeps competition equitable. **Answer:** public health will consider options and bring them to the table at the next meeting January 3.
- **Request:** tell industry what nutrition abbreviations to use. **Answer:** Donna will research industry standard on abbreviations
- **Will PH give them educational materials to share with customers?**
Answer: yes
- **Define difference between “serving” and “portion size.”** **Answer:** that will be defined in the “Q & A’s” being developed

Industry reinforced the importance of getting these questions and concerns handled quickly because the process for having menus designed and printed was long, complex, and expensive. The time for menu printing for 2008 is quickly approaching. Dennis explained that the draft policy would be presented to the Board of Health on January 17, and that this part of the process will be complete by January 31st.

- **4.3 Food Nutrition Labeling Requirements:** In addition to nutrition labeling by each menu item, how should the diet and trans fat statements be placed? **Answer:** the statements must appear at least once on the menu. The trans fat statement need only appear if there are artificial trans fats in the portion sizes served.

Other suggestions from the Ad-Hoc group were:

- ✓ PH provides the list of Restaurants they consider “chains”
- ✓ PH provides education to individual sites as well as to the chain regional office .
- ✓ PH provides “hands on” training, classes and a website.
- ✓ A review/approval process for their menu boards, pamphlets etc. before submitting them to their print shop.

Since there was no time to review questions and answers from the previous meetings, participants were asked to get any clarifying questions to Morgan before the next meeting.

Next meeting is on 1/03/2008.

PH will bring back to the January 3 meeting:

- Whether to keep or delete “Same menu concept,” in definition, whether it has legal basis.
- A clearer definition of food tags/case tags
- Whether “Assorted pastries,” “chicken pieces” on menu board, “assorted pies” on menu need labeling.
- Clear guidance on “similar to” for font size and abbreviations
- A draft process for education and support for industry “do it right, get it right the first time”:
 - Fact sheet on artificial/natural trans fat
 - Portion vs serving size
 - Web resources
 - Q & A sessions/classes
 - Pre-approval process for menus and menu boards
 - Technical assistance process for menus and menu boards

Industry will bring their “Drop dead dates” for menus to be designed and ready for the printer, and PH was asked to bring “drop dead dates” when all has to be complete